
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Universal Network Television, LLC)	File No. EB-04-NY-050
Universal City, CA)	
)	NAL/Acct. No. 200532380001
)	
)	FRN: 00010 6623 51

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: October 18, 2004

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Universal Network Television, LLC ("Universal") has apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended ("Act"),¹ by operating unlicensed radio transmitting equipment on the frequency 465.63125 MHz. We conclude, pursuant to Section 503(b) of the Act², that Universal is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On March 22, 2004, the FCC New York Office received a complaint of interference from a licensee in the Public Safety Radio Pool operating on the frequency 465.6250 MHz. The complaint identified Universal, located at Pier 62, West 23rd Street and 12th Avenue, New York, NY, 10011, as the party causing the interference by operation on the frequency 465.63125 MHz. The complaint also stated that Universal was notified of the interference caused by their unlicensed operation on the frequency 465.63125 MHz.

3. On March 23, 2004, a Commission agent, using a mobile direction-finding vehicle monitored the frequency 465.63125 MHz in New York, NY and positively located the source of the transmissions to the area at Pier 62, West 23rd Street and 12th Avenue, New York, NY 10011. The agent observed transmissions from several portable transceivers used by a television production crew. A review of FCC databases revealed that operation by Universal on frequency 465.63125 in New York, NY, was not authorized by the FCC.

4. On March 24, 2004, Commission agents monitored the frequency 465.63125 MHz in New York, NY, and heard transmissions of a television production crew. The agents returned to Universal, Pier 62, West 23rd Street and 12th Avenue, New York, NY 10011, and conducted an inspection of the radio equipment with Assistant Production Coordinator Joseph Gonzalez. The agents determined that Universal operated Motorola P1225 UHF portable radio transceivers, rated at 4.4 watts, on the

¹47 U.S.C. § 301.

²47 U.S.C. § 503(b).

frequency 465.63125 MHz. The agents advised Mr. Gonzalez that operation on that frequency requires a license and that, based on the agent's review of FCC databases, there is no evidence of a Commission authorization for this operation in New York, NY and therefore Universal was operating portable radio transmission equipment without a FCC license.

III. DISCUSSION

5. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.³ The term "repeated" means the commission or omission of such act more than once or for more than one day.⁴

6. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act. A review of the FCC's records showed that there was no evidence of a Commission authorization to operate this station on the frequency 465.63125 MHz in New York, NY.

7. Based on the evidence before us, we find that Universal willfully and repeatedly violated Section 301 of the Act by operating radio transmission equipment on 465.63125 MHz on March 23, 2004 and March 24, 2004 without a Commission authorization.

8. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* ("Forfeiture Policy Statement"), and Section 1.80 of the Rules, the base forfeiture amount for operation without an instrument of authorization is \$10,000.⁵ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors, a \$10,000 forfeiture is warranted.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Universal Network Television, LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Section 301 of the Act.⁷

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁵ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 C.F.R. §§ 0.111, 0.311.

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10. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Universal Network Television, LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

12. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Northeast Region, 201 Varick Street, Suite 1151, New York, NY 10014 and must include the NAL/Acct. No. referenced in the caption.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

15. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Universal Network Television, LLC, 100 Universal City, Building 4250, Universal City, CA 91608.

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
District Director
New York Office
Northeast Region
Enforcement Bureau

⁸See 47 C.F.R. § 1.1914.